

July 6, 2022

VIA ECF FILING

Honorable Nancy Joseph
U.S. District Court Eastern District of Wisconsin
United States Courthouse, Room 249
517 East Wisconsin Avenue
Milwaukee, WI 53202

Re: Post-trial Briefing on Fees and Costs
Raffel Systems, LLC v. Man Wah Holdings Ltd, Inc., Man Wah (USA) Inc., and XYZ Companies 1-10; Case No. 2:18-cv-01765

Dear Honorable Judge Nancy Joseph:

I write to request the Court clarify and/or reconsider its order on the entry of judgment (dkt. 454) as it relates to briefing on Raffel's request for attorneys' fees and costs. Particularly, I request that under the current briefing schedule, the Court only determine whether Raffel is entitled to attorneys' fees (as an exceptional case under the Lanham Act and/or the Patent Act) and discretionary costs (under Section 1117 of the Lanham Act). Once the Court makes those determinations, Raffel will submit the evidence of its fees and costs and their reasonableness. This approach would streamline post-trial briefing and give Raffel enough time to review four-years' of monthly invoices between multiple firms and prepare an appropriate submission to the Court.

Rule 54(d)(2)(C) expressly allows the Court to "decide issues of liability for fees before receiving submissions on the value of services." *See, e.g., T&M Inventions, LLC v. Acuity Brands Lighting, Inc.*, Case No. 14-CV-947, 2016 WL 8290851, at *1 (E.D. Wisc. Sept. 21, 2016) (deciding liability for fees before receiving a request detailing the amount); *see also Third Wave Techs. Inc. v. Stratagene Corp.*, 405 F. Supp. 2d 991, 1018-19 (W.D. Wis. 2005) (ordering parties to submit itemization of fees and objections after deciding liability); *Foreword Magazine, Inc. v. Overdrive, Inc.*, 2013 U.S. Dist. LEXIS 3709, at *16-18 (W.D. Mich. Jan. 10, 2013) (first determining liability under 15 U.S.C. § 1117, with an accounting detailing the amount of fees and costs submitted after judgment).

Rule 54(d)(C) "assures the parties of an opportunity to make an appropriate presentation with respect to issues involving the evaluation of legal services...The amount of time to be allowed for the preparation of submissions both in support of and in opposition to awards should be tailored to the particular case." Notes of Advisory Committee on 1993 Amendments. The parties and this Court have agreed: this case is complex. Over the four years of litigation, which culminated in a two-week trial, there have been numerous disputes and issues with many twists and turns. Determining and substantiating the reasonableness of fees and costs associated with this case will



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be a time-consuming and labor-intensive process that should be addressed separately at a later stage.

Accordingly, Raffel respectfully requests the Court allow Raffel to brief only the issue of liability for fees and costs under the Court's current briefing schedule.

Thank you for Your Honor's consideration.

Very truly yours,

MICHAEL BEST & FRIEDRICH LLP

/s/ Tanya M. Salman

Tanya M. Salman